

**ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL**

In the Matter of:

DWH Creative Contracting, Inc.
750 National Court
Richmond, California 94804

ID No. (CAR000242958)

Respondent.

Docket HWCA20157220

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and DWH Creative Contracting, Inc. (Respondent) enter into this Consent Order and agree as follows:

1. Respondent is an environmental company located at 750 National Court, Richmond, California 94804 (Site).

2. The Department conducted a hazardous waste records review of the Site starting on October 20, 2015.

3. The Department alleges the following violations:

3.1. The Respondent allegedly violated California Health and Safety Code section 25163 in that the Respondent transported hazardous waste, from offsite locations to the Site, without a valid registration or authorization from the Department. The violations allegedly occurred intermittently on or about, January 2014 to October 2015. The Department does not have any records of application and registration to transport hazardous waste from the Respondent.

3.2. The Respondent allegedly violated California Health and Safety Code section 25201, subdivision (a) in that on or about January 2014 to October 2015, the Respondent allegedly illegally stored hazardous waste from offsite locations at the Site without a permit or authorization from the Department.

4. A dispute exists regarding the alleged violations. Respondent acknowledges receiving these violations, but does not admit to any liability, express or implied for any of the alleged violations set forth herein.

5. The parties wish to avoid the expense of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other, new or future violations. The Department represents that there are no other violations pending other than the ones set forth herein.

SCHEDULE FOR COMPLIANCE

9. Respondent shall comply with the following:

9.1. Respondent shall not transport hazardous waste unless the Respondent receives grant of authorization by the Department.

9.2. Respondent shall not store hazardous waste at the site unless the Respondent receives a grant of authorization from the Department.

9.3. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent simultaneously to:

Sangat Kals, Ph.D.
Senior Environmental Scientist (Supervisory)
Enforcement and Emergency Response Division
Department of Toxic Substances Control
8810 Cal Center Drive
Sacramento, California 95826

9.4. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

9.5. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims, except as provided in this Consent Order.

9.6. Release: The Department hereby fully releases, discharges and acquits Respondent and each of its respective predecessors, insurers, affiliates, parents, subsidiaries, successors, heirs, assigns, agents, attorneys, employees, representatives, and all persons acting by and through it, or any of them (the "Respondent Releasees"), of and from any and all manner of action or actions, cause or causes of action in law or in equity, suits, debts, liens, contracts, agreements, promises, liabilities, claims, demands, damages, losses, costs or expenses of any nature whatsoever, known or unknown, suspected or unsuspected, fixed or contingent (hereinafter collectively called

"Claims"), which the Department had, now has, or may hereafter have against the Respondent Releases which arise out of, or in connection with, the alleged violations set forth in this Consent Order. The Department hereby covenants not to sue or pursue any further Claims against the Respondent Releasees for any Claims which arise out of, or in connection with, the alleged violations set forth in this Consent Order. This release encompasses, without limitation, all damages, attorneys' fees, court costs, or expert witness fees incurred.

9.7. Waiver of California Civil Code § 1542: The Department and Respondent acknowledge that they have been advised by their attorneys concerning common law or statutory provisions that a general release of liability does not extend to claims that a person or an entity does not know or suspect to exist in his, her, or its favor at the time of executing a release—which if known would have materially affected the settlement and release; including but not limited to California Civil Code Section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her, must have materially affected his or her settlement with the debtor.

With respect to the Claims released herein, the Department and Respondent expressly waive any such common law or statutory protection to the extent it may apply, including, without limitation, California Civil Code Section 1542, and therefore waive any such rights under such state statute or common law. The Department and Respondent expressly agree that all release provisions in this Agreement shall be given full force

and effect in accordance with each and all of their express terms and provisions, including those terms and provisions relating to unknown, unsuspected or future claims, demands and causes of action related to the Claims released herein.

9.8. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all property at the Site at all reasonable times, upon reasonable notice, for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

9.9. Sampling, Data, and Document Availability: Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Consent Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Consent Order.

9.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by

Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

9.11. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

9.12. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

10. Within 30 days of the effective date of this Consent Order, Respondent shall pay the Department a total penalty in the amount of \$58,000, of which \$49,456.68 is a penalty and 8,543.32 is reimbursement of the Department's costs. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent:

To: Jay Cross
Senior Attorney
Office of Legal Counsel
Department of Toxic Substances Control
1001 I Street, 23rd Floor
Sacramento, California 94814

To: Sangat Kals. Ph.D.
Senior Environmental Scientist (Supervisory)
Emergency Response and Enforcement Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

OTHER PROVISIONS

11.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

11.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

11.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to

individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

11.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

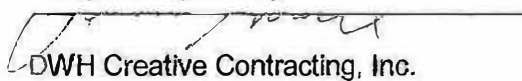
11.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

12. EFFECTIVE DATE

12.1. This effective date of this Order is the date it is signed by the Department.

Dated: 08/28/2017

Original signed by


DWH Creative Contracting, Inc.

Dated: August 29, 2017

Original signed by Sangat Kals

Department of Toxic Substances Control